

Constitutional Court of Romania

Decision n° 2026/01

Of 7 February 2026

Relating to the objections of unconstitutionality raised against the Law on Economic Recovery

NewPlayerqwerty
Lavainquiss

President
Judge-Assessor

1. The Constitutional Court was separately seised, under Article 146(a) of the Constitution, of the Bill for an Law on Economic Recovery by the President of Romania and the Government on 31 January 2026.

2. The Court invited observations from the seising authorities as well as external observations, although none were filed with the Court.

3. The Court recalls as a preliminary matter that it does not belong to the Court to evaluate the opportunity of laws submitted for its consideration nor, within the limits imposed by the Constitution, to control the policy determinations operated by the legislator in respect of each statute.

On the requalification of provisions of the bill as an Institutional Law (*lege organică*)

4. The Constitution does not establish individually disparate rules to bind public institutions, but forms part of a holistic order governing the powers of public institutions and the relations between them. In consequence, the provisions of the real-life Constitution which are not supplanted or displaced by or incompatible with subsequent revisions continue to have full, but suppletive, effect as parts of the Romanian constitutional order.

5. According to Article 73 of the Constitution : « Parliament passes constitutional, institutional, and ordinary laws. / ... / Institutional laws shall regulate: ... the status of Deputies and ... the establishment of their emoluments and other rights; ... the statute of public servants; ... the general rules covering labour relations ... and social protection; ». According to paragraph 4 of Article 136 of the Constitution : « Public property is inalienable. Under the terms of the institutional law, public property can be ... granted or leased. ».

6. While the provisions in an ordinary statute having already been promulgated which relate to a matter reserved to the domain of an institutional statute are unconstitutional, it belongs to the Constitutional Court, seised, before its promulgation, of the text of an ordinary law containing provisions reserved to an institutional law to examine if the conditions of passage of an institutional statute are met and, if applicable, to requalify those provisions as provisions of an institutional statute. Conversely, however, provisions formally contained within an institutional statute while not forming relating to one of the matters exclusively reserved to an institutional law conserve their character as an institutional statute unless expressly declassified by a subsequent institutional statute.

7. The first operative paragraph of the single article of the law deferred to the Court provides : « All salaries are cut by 25% except for Parliament Members, SRI, President and Constitutional Court. ». Respecting the pay of members of the SRI and other public servants, while the exact sum of remuneration to be paid to each public servant is not necessarily

reserved to the domain of an institutional act, in the absence of a general statutory framework determining the conditions and procedure for the calculation and adjustment of public servants' pay, and associated rights, these provisions must be regarded as an alteration to the general rules and principles governing the status of civil servants which may only be changed by an institutional act.

8. The second operative paragraph of the same article provides : « The minimum wage/salary in Romania should be 200 euros, reduced from the current 350 ». According to Article 41 of the Constitution : « All employees have the right to measures of social protection. These concern ... the setting up of a minimum gross salary... ». While the exact sum of the minimum wage is not necessarily reserved to the domain of an institutional act, in the absence of a general statutory framework determining the conditions and procedure for the determination and adjustment of the minimum wage, and associated rights, these provisions must be regarded as an alteration to the general rules and principles governing workers' rights and social protection which may only be changed by an institutional act.

9. The third operative paragraph provides for the reduction in budget of the Ministry of Justice. These provisions, of a purely budgetary nature, do not implicate any matter reserved to an institutional act.

10. The fourth operative paragraph provides : « The Serpent Island will henceforth be rented to different private companies to be used for tourism ... ». While the Constitution does not require that every lease or act of management or disposition of public property be individually authorised by institutional law, it results from the aforecited Article 136 that all such operations must intervene within a comprehensive framework created by institutional statute. Operations occurring outside of that framework must be expressly authorised on an individual basis by institutional law, and motivated by considerations of public interest owing to the special nature of the operation in question. In consequence, and without prejudging the substantive constitutionality of the operation, these provisions, which enact an ad hoc public property management scheme relating to an isolated island in an active war zone, must be regarded as being reserved to the domain of an institutional act.

11. The fifth operative paragraph provides : « The parliament members will be brought to parliament via limousines, those limousines will replace the current Mercedes. ». While the rights and status of Deputies is a matter reserved for institutional statutes, the management of the vehicle fleet placed at the disposal of a public service, without creating an affirmative right of Deputies to the enjoyment of a vehicle, or a specific class of vehicle, constitutes an ordinary act of administration which does not implicate the reserved domain of institutional laws, nor even necessarily the statutory domain. Given, however, that Parliament is presumed to be competent, subject to the limitations of the constitutional order, the international obligations of Romania, and institutional acts, to be competent to intervene legislatively in any subject-matter, subject to the reserve that this paragraph may not create a statutory right for Deputies and Senators to enjoy a certain kind of vehicle, nor create or extend any previous right to the enjoyment of a vehicle, this paragraph does not implicate any matter reserved to the domain of an institutional statute.

12. It results from the instruction that the conditions of passage of the law submitted to the Court are compatible with the special conditions applicable to institutional laws. In consequence the law submitted to the Court *does not violate the reserved domain of institutional laws*.

On the first paragraph of the single article

13. The first operative paragraph of the single article of the law provides : « All salaries are cut by 25% except for Parliament Members, SRI, President and Constitutional Court. ».

14. According to Article 41 of the Constitution : « The right to work shall not be restricted. / ... / All employees have the right to measures of social protection. These concern ... the setting up of a minimum gross salary ..., weekends, paid rest leave, work performed under difficult and special conditions, as well as other specific conditions, as stipulated by statute. ». According to Article 45 thereof : « Free access to economic activity, free enterprise, and their exercise under the conditions provided for by statute are guaranteed. ». According to Article 135 thereof : « Romania is a free market economy, based on free enterprise and competition. / The State secures : a) a free trade, protection of fair competition, provision of a favourable framework in order to stimulate and capitalize every factor of production; b) protection of national interests in economic, financial and currency activity; ... f) creation of all necessary conditions so as to increase the quality of life; »

15. It results from these provisions that economic liberty is one of the rights and liberties protected by the Constitution. This liberty includes, notably, the freedom, subject to the minimum working conditions and social protection necessary to guarantee the dignity and safety of workers, to prevent unlawful discrimination in the economy, and to prevent their abuse or exploitation, that are provided for by law, the collective bargaining agreements intervening in a framework determined by law, and the balancing of economic freedom with other countervailing rights protected by law, for employers and employees to fix, by contractual means, mutually agreeable terms of employment without the undue intervention of public authorities.

16. While it belongs to the legislator, including where applicable, the institutional legislator, within its margin of appreciation, to determine the precise extent of the exercise of these liberties, and to select the means for their guarantee, including through a robust system of labour rights and social protection, it may not, except where justified by and tailored to rules, values, or principles of supralegislatory value to which it seeks to give effect, substantially burden or interfere with the liberties enumerated in the preceding paragraph.

17. According to paragraph 2 of Article 4 of the Constitution : « Romania is the common and indivisible homeland of all its citizens, without any discrimination ». According to Article 16 thereof : « Citizens are equal before the law and public authorities, without any privilege or discrimination. / No one is above the law. ». According to paragraph 2 of Article 44 : « Private property shall be equally guaranteed and protected by the law, irrespective of its owner. ». It may be deduced from the combination of these provisions that equality and equity, including in particular within the economic context, is a principle of constitutional value. This principle prevents the legislator from installing a system of more favourable treatment to some individuals than others who are in an equivalent situation.

18. According to Article 73 of the Constitution : « Institutional laws shall regulate: ... the status of Deputies and ... the establishment of their emoluments and other rights; ... the status of public servants; ». According to Article 102 thereof : « The emolument and other rights of the President of Romania are established by law. ». It results from these provisions that the institutional legislator, subject to the proviso of point 7, and the ordinary legislator, are respectively competent to determine the remuneration of members of the legislature and public servants, and of the President. However, it results from the principles previously enumerated that—on the one hand, while the legislator may, in a similar fashion to the deliberative organs of an ordinary employer, choose, out of justified considerations, to offer more favourable working conditions, it may not, without violating the constitutional protection of workers or the constitutional principle of equality and equity or the right to labour and social protection, enact working conditions in the public service which are not at least

comparable to those minimum working conditions, including in particular the minimum wage, applicable to private sector employers, except in narrowly tailored circumstances relating to the unique and exorbitant imperatives of the public service, and, on the other hand, that the legislator may not create, within the public service, differences in treatment between civil servants that are not congruent with and proportional to the consideration of objective differences between civil servants.

19. While the legislator may make general adjustments to public-sector remuneration, it does not result from the instruction of this case that there exists any contextual justification for the difference in treatment created between members of the SRI and other law enforcement authorities. Likewise, it is neither demonstrated nor alleged that members of the Constitutional Court exercise their duties, relative to the general cohort of public servants, which is indifferently treated by the law in question, in conditions which are so materially different so as to justify the creation of special pay conditions. Meanwhile the President and members of the legislature, who are, contrary to members of the SRI and the Constitutional Court, not career public servants who may legitimately expect, subject to rules relating to retirement and inaptitude to serve, to be entitled to serve for life, but are elected for short and definite periods, exercise their duties in conditions which are materially different to those of tenured public servants, including members of the SRI and the Constitutional Court. As such it is appropriate to defer to the exercise of legislative discretion exercised in excluding the President and members of the Parliament from the application of the law, which does not violate the constitutional principle of equality, without prejudging the exactitude of the policy determination operated by the legislature. In consequence, *the words « SRI » and « Constitutional Court » are contrary to the Constitution.*

20. *Subject to the reserves enumerated in points 15 and 16, to the effect that the first operative paragraph of the law must be read as altering only the pay of public officials, and of point 17, to the effect the legislator may not normally create substantively less favourable working conditions within the public sector than the private sector, the remaining provisions of this article must be declared compatible with the Constitution.*

On the second paragraph of the single article

21. The second operative paragraph of the single article of the law provides : « The minimum wage ... should be 200 euros, reduced from the current 350... ».

22. According to paragraph 3 of Article 1 of the Constitution : « Romania is a democratic and social state, governed by the rule of law, in which human dignity ... is guaranteed. » According to Article 41 of the Constitution : « All employees have the right to measures of social protection. These concern ... the setting up of a minimum gross salary... ». According to Article 47 thereof : « The State must take measures of economic development and social protection, of a nature to ensure a decent living standard for its citizens. / Citizens have the right to ... social securities, as provided for by statute. Citizens have the right to social assistance, according to statute. ». According to Article 73 of the same : « Institutional laws shall regulate: ... the general rules covering labour relations ... and social protection; ».

23. As recalled in point 8, it results from these provisions that the legislator, specifically, in the individual circumstances of this law, the institutional legislator, is competent within its margin of appreciation to determine the national minimum wage, provided that such a wage must, at the time of its re-evaluation, suffice to secure within the contemporary economic conditions, a living standard compatible with human dignity and the ability to access the effective enjoyment of other rights secured by law.

24. It does not belong to the Court to evaluate economic choices committed to the sound discretion of the legislator. In this case, it is not alleged, and does not result from the

instruction, that the re-evaluation of the minimum wage is irrational or results from a manifest error of appreciation. In consequence, *the second paragraph is in conformity with the Constitution.*

On the third paragraph of the single article

25. The third operative paragraph of the single article of the law provides : « The Ministry of Justice is getting the least funding of the government, it shall be reduced to 0.8% of the GDP (currently it is 3.4%). ». While the precise formulation of this paragraph may be regrettable, its phrasing, which permits the meaningful deduction of its intellectual content, must be read as proceeding with a 76,4 % reduction of the budget of the Ministry of Justice, does not implicate the constitutional principle of clarity and intelligibility of norms.

26. According to paragraph 4 of Article 1 of the Constitution : « The State shall be organized based on the principle of the separation and balance of powers - legislative, executive, and judicial - within the framework of constitutional democracy. ». According to Article 21 thereof : « Every person is entitled to access justice for the vindication of his legitimate rights, liberties and interests. / The exercise of this right shall not be restricted by any law. / All parties shall be entitled to a fair trial and to determination within a reasonable time. ». According to Article 117 of the Constitution : « Ministries are established and organised, and function in the conditions determined by law ... ». According to Article 124 thereof : « Justice is rendered in the name of the law. / Justice is one, impartial, and equal for all. / Judges are independent and subject only to the law. ». According Article 138 of the same : « The national public budget comprises the State budget ... / ... / The Government ... drafts and submits the State budget and ... which shall be submitted separately to Parliament for approval. »

27. It results from these principles that the legislator is competent to determine the budgets of each ministry according to its needs and the resources available. While, in respect of the unique circumstances of the Ministry of Justice, the legislator must reconcile its fiscal and policy appreciations with its affirmative duty, as results from the aforecited provisions of the Constitution to guarantee the independence of the judiciary, and to allow fair and speedy access to justice, it is neither alleged nor demonstrated by the instruction that the budget allocated is insufficient to guarantee the good functioning of the judiciary. In consequence, *this paragraph is in conformity with the Constitution.*

On the fourth paragraph of the single article

28. The fourth operative paragraph of the single article of the law provides : « The Serpent Island will henceforth be rented to different private companies to be used for tourism production, this will offer the government profits of over 0.3% of the GDP each month. »

29. According to Article 3 of the Constitution : « The territory of Romania is inalienable. / The borders of the country are sanctioned by an institutional law, with the observance of the principles and other generally recognised rules of international law. ... ». According to Article 10 of the same : « Romania fosters and develops peaceful relations with all the states, and, in this context, good neighbourly relations, based on the principles and other generally recognised provisions of international law. ». According to Article 11 thereof : « The Romanian State pledges to fulfil as such and in good faith its obligations as deriving from the treaties it is a party to. / Treaties ratified by Parliament, according to the law, are part of national law. ... ».

30. It results from these principles that laws which violate rules of public international law which are binding upon Romania also violate, by that fact alone, the Constitution. These rules include those contained within treaties ratified by Romania which, in view of the expressed intention of the parties and the general scheme and structure of the treaty, as well

as its content and terms, are not exclusively intended to govern relations between States and are sufficiently normative and determinate in nature so as to convey intelligible effects in relation to individual situations, and which are either reciprocated by the other parties to the treaty, or, in light of the nature or purpose of the treaty, must be regarded in nature not as a transactional exchange between the treating parties, but as seeking to impose minimum standards of conduct or to create a baseline insurance of rights to which each of the parties are intended to independently commit. In addition to such treaties, those rules include, in particular, the *erga omnes* principles revealed by the jurisprudence of international courts and tribunals, including arbitral tribunals, to which Romania is a party or whose rigour, authoritativeness and legitimacy are generally recognised, the general principles of law recognized by civilised nations, and other well-established customary rules and principles of international law.

31. According to paragraph 2 of the Charter of the United Nations : « All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations. ». According to resolution 3314 (XXIX) of the General Assembly of the United Nations (14 December 1974), « Aggression is the use of armed force by a State against the sovereignty, territorial integrity or political independence of another State, or in any other manner inconsistent with the Charter of the United Nations. ». It results from these provisions and others that it is a settled principle of international law that, while a state may claim or dispute territory with other states, and may under internal law make arrangements for the exercise of effective administration thereover, a country may not employ force to acquire such territory. It results from this principle and the previously cited provisions that while the institutional legislator may assert sovereign jurisdiction over a territory not currently within the borders of the state, and, implicitly but necessarily modify within the meaning of paragraph 2 of Article 3 of the Constitution the borders of Romania, such a law may not be read so as to authorise the use of force to acquire such territory.

32. According to Article 44 of the Constitution : « The right of property, as well as the ... [is] guaranteed. The content and limitations of these rights shall be established by law. / Private property shall be equally guaranteed and protected by the law, irrespective of its owner. ... / No one shall be expropriated, except on grounds of public utility, established according to the law, with just and prior compensation. / The nationalisation or any other measures of forcible transfer of assets to public property based on the owners' social, ethnic, religious, political, or other discriminatory features is prohibited. ... ». According to Article 73 of the Constitution : « Institutional laws shall regulate: ... the general legal status of property... ». Article 136 thereof : « ... / Public property is guaranteed and protected by the law... /.../ Mineral resources of public interest, the air, the waters with energy potential that can be used for national interests, the beaches, the territorial sea, the natural resources of the economic zone and the continental shelf, as well as other possessions established by law, shall be public property exclusively. /.../ Public property is inalienable. Under the terms of institutional law, public property may be managed by independent authorities or public institutions, or may be granted or leased; furthermore, it may be transferred for free usage to institutions of public utility. ». In consequence of these provisions that, on the one hand, while the legislator may enact general rules relating to the law of property, it may not alienate the right to private property, nor interfere in a targeted manner with individual private property, except when justified by and tailored to rules, values, or principles of supralegislative value to which the legislator seeks to give effect, and either with just and prior compensation, or where the curtailment of property rights is part of the normal civic

obligations of property owners. On the other hand, the legislator, including where applicable the institutional legislator, may, in principle, make rules governing the management and disposal of public property, subject to the limitations imposed by supralegislative rules, principles, and values, including in particular those rendered necessary by the protection of civil liberties, the environment, the material and immaterial heritage of Romania. Furthermore, the legislator may not administer public property in a manner contrary to the constitutional principle of responsible administration, such as in particular by ceding public property below its true value, other than where the cession is undertaken for the advancement of substantial considerations of public interest and in view of procuring non-monetary benefits for the administration or the public interest and accordingly may be analysed, in light of the holistic benefits of the transaction, to represent equal or superior value to the pecuniary value of the property ceded.

33. According to paragraph 2 of Article 4 of the Constitution : « Romania is the common and indivisible homeland of all its citizens, without any discrimination ». According to Article 16 thereof : « Citizens are equal before the law and public authorities, without any privilege or discrimination. / No one is above the law. ». According to paragraph 2 of Article 44 : « Private property shall be equally guaranteed and protected by the law, irrespective of its owner. ». It results from the combination of these provisions, and those previously recalled that the constitutional principle of equality also comprises, as one of its limbs, the principle of fair opportunity before the administration. This principle supposes that whether within or outside of the special legislation relating to public procurement and concessions, a public authority, including the legislator, must, except where there are identifiable reasons to believe that doing so is impractical or represents a manifestly disproportionate excess in resources required, prefer wherever possible the fulfilment of services, the conduct of works, and the procurement of supplies internally, or in partnership between two or more public authorities, and, secondly, that where it is necessary and proper to have recourse to private economic operators, that public authorities select such partners on the basis of a fair and open process, adapted to the circumstances, in order to identify the most attractive offers and partners in light of the totality of relevant circumstances.

34. It results from the instruction that, at the time at which the Court rules, Serpent Island is not part of the territory of the state. The provisions in question must therefore be understood as modifying the borders thereof to include such territory. It does not appear from the instruction that there exists any assertion to private title of any part of Serpent Island, nor does it appear therefrom that the legislator has designated any beneficiaries of the concessions or leases to be granted in respect of Serpent Island.

35. In consequence, subject to the *reserves enumerated in points 30, 31, 32, and 33*, the fourth operative paragraph of the law is *in conformity with the Constitution*.

On the fifth paragraph of the single article

36. The fifth operative paragraph of the single article of the law provides : « The parliament members will be brought to parliament via limousines, those limousines will replace the current Mercedes. ».

37. As recalled in point 11 of the decision, the management of the vehicle fleet placed at the disposal of a public service, without creating an affirmative right of Deputies to the enjoyment of a vehicle, or a specific class of vehicle, constitutes an ordinary act of administration which does not implicate the reserved domain of institutional laws, nor even necessarily the statutory domain.

38. According to paragraph 1 of Article 64 of the Constitution : « The organisation and functioning of each Chamber shall be regulated by its own Regulations. Financial resources

of the Chambers shall be provided for in the budgets approved by them. ». It results from these provisions that the chamber, and, under the control of the chamber, its bureaux, and its other officers, are competent, subject to the general principles of public procurement and responsible public administration, to manage the technical equipment, including motor vehicles, dedicated to the parliamentary service.

39. Given that the legislator is presumptively competent, subject to the limitations of the constitutional order, the international obligations of Romania, and institutional acts, to be competent to intervene legislatively in any subject-matter, it may, without violating its competence, legislatively create guidelines for the internal administration of the parliament. Where, however, the legislator, whose intervention implicitly but necessarily presupposes the consent of the relevant chamber, does make provision for the administration of Parliament by way of ordinary legislation, such provision is only amenable to amendment by subsequent legislation, and not by the Regulations of the chamber. Furthermore, as recalled in point 11, the routine administration of the parliamentary vehicle fleet, does not confer, alter, or extend any right guaranteed by the supralegisative legal order.

40. In consequence, the fifth paragraph of the law submitted to the Court, *subject to the reserves of points 11, 17, 18, 37, 38, and 39, is in conformity with the Constitution.*

THE CONSTITUTIONAL COURT DECIDES

Article 1 The following provisions are contrary to the Constitution:

- Paragraph 1, the words « SRI » and « Constitutional Court ».

Article 2 The following provisions are in conformity, subject, where applicable, to the reserves enumerated:

- The remaining provisions of Paragraph 1
- Paragraph 2
- Paragraph 3
- Paragraph 4
- Paragraph 5

Article 3 This decision is final and executory.

Article 4 The decision will be published in the Official Monitor of Romania.

Done in BUCAREST on the seventh day of February 2026